

Paper 11- Indirect Taxation

MTP_Intermediate_Syllabus 2012_Dec 2015_Set 1

The following table lists the learning objectives and the verbs that appear in the syllabus learning aims and examination questions:

	Learning objectives	Verbs used	Definition
LEVEL B	KNOWLEDGE What you are expected to know	List	Make a list of
		State	Express, fully or clearly, the details/facts
		Define	Give the exact meaning of
	COMPREHENSION What you are expected to understand	Describe	Communicate the key features of
		Distinguish	Highlight the differences between
		Explain	Make clear or intelligible/ state the meaning or purpose of
		Identify	Recognize, establish or select after consideration
		Illustrate	Use an example to describe or explain something
	APPLICATION How you are expected to apply your knowledge	Apply	Put to practical use
		Calculate	Ascertain or reckon mathematically
		Demonstrate	Prove with certainty or exhibit by practical means
		Prepare	Make or get ready for use
		Reconcile	Make or prove consistent/ compatible
		Solve	Find an answer to
		Tabulate	Arrange in a table
	ANALYSIS How you are expected to analyse the detail of what you have learned	Analyse	Examine in detail the structure of
		Categorise	Place into a defined class or division
		Compare and contrast	Show the similarities and/or differences between
	Construct	Build up or compile	
	Prioritise	Place in order of priority or sequence for action	
	Produce	Create or bring into existence	

Paper 11- Indirect Taxation

Time Allowed : 3 Hours

Full Marks : 100

The figures in the margin on the right side indicate full marks.

All questions are compulsory. In question No. 1, all sub-questions are compulsory. In question Numbers 2 to 8, student may answer any two of the three sub-questions (a), (b) and (c).

Wherever necessary, you may make suitable assumptions and state them clearly in your answer.

Working notes should form part of the answer.

- 1. Answer the following questions with suitable reasons:** **[1×20=20]**
- (a) When one can pay duty under protest in Excise?
 - (b) What kind of duty is to be performed by DGFT regarding SCOMET Items?
 - (c) Whether Cenvat Credit is available on CST sale?
 - (d) State the periodicity of issue of C form?
 - (e) A non-executive director of a company is receiving sitting fees and commission of ₹ three lakhs from a private limited company. Is service tax payable? Under which head? Who is liable to pay service tax?
 - (f) Which entry in Seventh Schedule to Constitution of India is relevant for purpose of imposition of service tax?
 - (g) CESTAT (Tribunal) has passed an order on issue relating to classification of goods. An assessee is aggrieved with the order. Where he should file appeal?
 - (h) Is currency 'goods' for purpose of Customs Act?
 - (i) There is difference of opinion about interpretation of a provision in Foreign Trade Policy among following authorities:
 - (i) Principal Chief Commissioner of Customs
 - (ii) Director General of Foreign Trade
 - (iii) Revenue Secretary, Ministry of Finance
 - (iv) Chairman, Central Board of Excise and Customs (CBE&C).Whose interpretation will be held as final and binding?
 - (j) If the difference between actual transaction value and the average of arms length price determined by most appropriate method is below specified limit, the actual transaction value is accepted for income tax purposes without any adjustment. What is the limit?
 - (k) Name the variants of VAT.
 - (l) State the name of any two methods for computing Arm's Length Price in case of international taxation.
 - (m) State the elements which should be considered while calculating the value of export goods under computed value method.
 - (n) Mention the quantum of drawback for re-exporting of duty paid imported goods without use.
 - (o) State the taxability of service tax for municipal functions performed by a Government Authority.
 - (p) Whether business directories are included in the term, 'print media' for levy of service tax.
 - (q) A hotel garden was let out to a political party for 2 days for a meeting. Charges received ₹ 30,000 (excluding service tax). The hotel charges 10% service charges which are later distributed as tips to employees. Compute the service tax payable thereon.
 - (r) Manpower supply services by an individual to a company is ₹ 1,00,000. Compute the service tax liability by applying reverse charge mechanism.
 - (s) State the purpose of the Central Excise Tariff Act.

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- (f) State the manner to compute the assessable value if whole or part of excisable goods are not sold by the assessee but are used for consumption by him or in his behalf in production/ manufacture of other goods.

2. Answer any two: [2×2=4]

- (a) Write any two disadvantages of indirect tax. 2
(b) List the characteristics of Indirect Taxes. 2
(c) If there is a matter in Concurrent List and both Centre and State make a law on that matter, which law will prevail? 2

3. Answer any two: [8×2=16]

- (a)(i) Star Ltd. sold farm equipments to the agriculturists on ex-factory basis, upon payments made before dispatch of the goods. Star Ltd. at the request of their customers, arrange for payment of freight and transit insurance and for the dispatch of the goods to the destination. The Department's view is that since freight and transit insurance has been paid by Star Ltd., and since they have also arranged for the transport of goods, there is no ex-factory delivery of goods, and the cost of insurance and freight has to be included to the price for purposes of determination of value and excise duty should be payable on such basis. Discuss whether the contention of the Department is correct in law. 4

- (ii) Keen Ltd. purchased certain inputs which were directly consigned to the job worker's premises for manufacture of intermediate goods. State the conditions subject to which Keen Ltd. will be entitled to take credit of the duty paid on such inputs. 2

- (iii) A Ltd., a manufacturer of excisable goods, has applied for provisional assessment under Rule 7 of Central Excise Rules, 2002 and paid duty on provisional basis. The Assistant Commissioner issued a show-cause notice before finalisation of provisional assessment on the ground of misclassification of goods. With the help of decided case law discuss the validity of show-cause notice. 2

- (b)(i) Koel Ltd. is engaged in the manufacture of machines. It has supplied one machine to M/s. A & Co. with the following details. Determine the total amount of central excise duty and cess payable thereon.

Price of machine excluding taxes and duties — ₹ 8,50,000

Installation and erection expenses — ₹ 30,000

Packaging charges — ₹ 12,500

Design and engineering charges — ₹ 4,000

Cost of material supplied free of charge by buyer — ₹ 10,000

Pre-delivery inspection charges — ₹ 1,000

Other necessary information is as under:

Cash Discount @ 20% on price is allowed as per terms of contract because buyer made full payment in advance.

Bought out accessories worth ₹ 8,000 supplied with Machine. Central Excise Duty is 12%, Education Cess 2% and Secondary and Higher Education Cess is 1%. 6

- (ii) State the applicability of the concept of 'deemed manufacture' for the goods covered under Maximum Retail Price (MRP). 2

- (c)(i) Priya Industries started its production activities on 15th March, 2015. In the month of March, 2015, 1,000 units of raw material were purchased at ₹ 150 per unit, paying excise duty @ 8%. 800 units of raw material were consumed in manufacturing process and finished output was sold for ₹ 1,40,000 (excluding excise duty @ 8%). For simplification, you may ignore the conversion cost and assume the rates of excise duty to be inclusive of education cess. Pass the Journal entries in the books of the assessee. 6

- (ii) A manufacturer purchased certain inputs from X. The assessable value was ₹ 20,000 and the Central Excise duty was calculated at ₹ 3,296 making a total amount of invoice at ₹ 23,296. However, buyer-manufacturer paid only ₹ 20,800 to X in full settlement of this bill.

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How much CENVAT credit can be availed by manufacturer and why?

2

4. Answer any two:

[6×2=12]

(a) Alo & Company Ltd. have imported a machine from U.K. From the following particulars furnished by them, arrive at the assessable value for the purpose of customs duty payable:

(i) F.O.B. cost of the machine	10,000 U.K. Pounds
(ii) Freight (air)	3,000 U.K. Pounds
(iii) Engineering and design charges paid to a firm in U.K.	500 U.K. Pounds
(iv) License fee relating to imported goods payable by the buyer as a condition of sale	20% of F.O.B. cost
(v) Materials and components supplied by the buyer free of cost valued	₹ 20,000
(vi) Insurance paid to the insurer in India	₹ 5,000
(vii) Buying commission paid by the buyer to his agent in U.K.	100 U.K. Pounds
Other particulars:	
(i) Inter-bank exchange rate as arrived by the authorized dealer	₹ 72.50 per U.K. Pound
(ii) CBEC had notified for purpose of Section 14 of the Customs Act, 1962, exchange rate of	₹ 70.25 per U.K. Pound
(iii) Import r paid demurrage charges for delay in clearing the machine from the Airport	₹ 5,000

(Make suitable assumptions wherever required and show workings with explanations)

6

(b)(i) Pen Power Ltd. is registered under 'Project Import Regulations, 1986' for import of power equipments at concessional rate to implement a project for setting -up of a power plant. It imported a gas turbine and generator under the Project Import Regulations, 1986, but before these could reach the project site these were lost/destroyed in the sea within India.

The department denied project import concession under the Heading 9801 and demanded full duty, as the goods were not used in the project. Discuss with decided case law, whether the demand made by the department is tenable in law.

4

(ii) State the eligible projects which will come under the purview of Project Import.

2

(c)(i) A person makes an unauthorized import of goods liable to confiscation. After adjudication, Assistant Commissioner provides an option to the importer to pay fine in lieu of confiscation. It is proposed to impose a fine (in lieu of confiscation) equal to 50% of margin of profit. From the following particulars calculate the maximum amount of fine that can be imposed: Assessable value - ₹ 40,000, Total duty payable - ₹ 20,000, Market value - ₹ 1,00,000. Also calculate the amount of fine and the total payment to be made by the importer to clear the consignment.

4

(ii) Define 'Prohibited Goods' in the context of Customs Act.

2

5. Answer any two:

[4×2=8]

(a) State the principles of imposition of restrictions on Foreign Trade Policy by Directorate General of Foreign Trade.

4

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- (b)(i) A regular exporter of goods intends to apply for Advance Authorization for annual requirements. What is the maximum value for which he is entitled to get Annual Advance Authorisation? 2
- (ii) When an exporter can apply for Special Brand Rate of duty drawback? 2
- (c) Write short notes on 'Niryat Bandhu' and E-BRC (Bank Realisation Certificate) in the context of EXIM policy. 2+2

6. Answer any two:

[10×2=20]

- (a)(i) Mr. R provided repair and maintenance services of equipments belonging to Z Ltd., which are used in manufacture of oxygen. The repair and maintenance work was carried out at factory of Z Ltd. using electricity belonging to Z Ltd. The charges for services are fixed at ₹ 1,00,000, while value of electricity used is estimated at ₹ 10,000. The Department argued that the value of electricity is consideration in kind and is liable to service tax in hands of Mr. R. Decide. 4
- (ii) A builder constructed 25 flats in a residential apartment, out of which 23 were booked before start of construction. The price thereof was to be received in instalments during the period of construction. The flats were priced at ₹ 45 lakhs per flat (exclusive of taxes) (the price of land apportioned as ₹ 15 lakhs per flat was included in the said sum). Construction was started and completed in the same year. After issuance but before receipt of completion certificate, the balance two flats were sold at a price of ₹ 55 lakhs per flat (exclusive of taxes). Determine taxable value under service tax law and service tax thereon assuming that builder has opted for abatement available under law. 6

- (b) Compute taxable value of services provided from the following sums received by a bank (all sums exclusive of service tax, if any) -

- (1) Interest on loan : ₹ 550 lakhs ;
- (2) Interest on Overdraft facility : ₹ 100 lakh (including ₹ 15 lakhs for discounting of bills);
- (3) Commission on sale of foreign currency to banks : ₹ 60 lakh ;
- (4) Commission on sale of foreign currency to authorized dealers : ₹ 30 lakh ;
- (5) Processing fees in relation to loans, etc. provided to customers : ₹ 25 lakh ;
- (6) Commission and Processing charges on issuance of bank drafts, etc.: ₹ 400 lakhs (Value of bank drafts issued was ₹ 100 crores);
- (7) Services in relation to issuance of Commercial Papers : ₹ 30 lakh ;
- (8) Margin earned on trading in currency swaps : ₹ 50 lakh ;
- (9) Interest at exorbitant rates on credit card dues : ₹ 25 lakh ;
- (10) Gross amount of currency exchanged (INR to foreign or vice-versa) : ₹ 5000 lakhs. The RBI reference rate was not available. The Bank has not exercised option to pay service tax at prescribed rates under composition scheme. 10

- (c)(i) Z Ltd. of Delhi has appointed Paras Inc. of US as an agent for marketing of goods manufactured by Z Ltd. Z Ltd. has paid a commission of ₹ 15,00,000 to Paras Inc. for the services rendered for the half year ending 31-03-2015. Discuss service tax liability of the service rendered by Paras Inc. of US. 3

- (ii) Rekha Ltd., a unit in SEZ, received services from various service providers in relation to authorized operations in SEZ during the month August, 2014. At the time of making payment, service provider asks it to pay tax, however, it argues that service tax is not applicable on taxable services provided to it. The following details are furnished for the month August, 2014:

1. Value of Taxable services used exclusively for authorised operations within SEZ : ₹

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5,00,000

2. Value of Taxable Services used by SEZ units and DTA (Domestic Tariff Area) units : ₹ 8,00,000
3. Value of Taxable services used wholly for DTA units : ₹ 3,00,000
4. Export Turnover of SEZ Unit: ₹ 1,00,00,000
5. Turnover of DTA Unit: ₹ 60,00,000
6. Service Tax Rate : 12.36%

Compute the amount payable as service tax by M/s. Rekha Ltd. along with incentives available to it by way of exemption/refund/CENVAT Credit for the month assuming that all conditions are complied with. **4**

(iii) Mr. Khan a famous cricketer furnishes you with the following information of the various receipts for the quarter ended 31-03-2015. Calculate his service tax liability if all the amounts are exclusive of service tax. Ignore small service provider exemption.

- (1) Receipts from Sports Authority of India for participation in recognised sport: ₹ 50 lakh;
- (2) Receipts from franchisee of Indian Premier league (not a recognised sports body): ₹ 75 lakh;
- (3) Receipts from acting as brand ambassador for corporate client: ₹ 20 lakh ;
- (4) Khel Ratna award received from Government of India : ₹ 10 lakh;
- (5) Receipts of sports training academy to coach young players: ₹ 15 lakh. **3**

7. Answer any two:

[6×2=12]

(a)(i) State various purposes for which goods can be purchased at concessional rate under Central Sales Tax Act, by issuing C form. **2**

(ii) Compute Vat payable on works contract when the dealer does not intend to pay Vat under any composition scheme – Contract Price (excluding Vat) – ₹ 1,00,000. Input materials used in contract including Vat @ 14.5% - ₹ 11,450, Cost of labour in execution of the works contract – ₹ 25,000. Cost of other services in the execution of works contract – ₹ 10,000, Consumables used in the works contract – ₹ 5,000, Plant and machinery purchased including Vat @ 4% - ₹ 26,000, Vat rate on output – 14.5%. Assume that 100% input tax credit on capital goods is available. **4**

(b) Mr. X, a dealer located in the State of Maharashtra, dealing in machinery used in rolling mills furnishes following information for the financial year 2014 - 15.

1. Total inter-state Sales during in the financial year (CST not shown separately) – ₹ 2,29,50,000
 2. Trade Commission for which credit notes have been issued separately – ₹ 5,78,125
 3. Freight and Transportation charges charged separately in invoice – ₹ 4,00,000
 4. Freight charges included in value but not shown separately – ₹ 2,00,000
 5. Insurance for transport of machinery upto destination – ₹ 75,000
 6. Installation and commissioning charges levied separately in invoice – ₹ 1,00,000
 7. The buyers have issued C form in respect of machinery bought by them from Mr. X.
- Compute the tax liability under CST Act. **6**

(c)(i) A dealer claims that he has sent some goods out of State on stock transfer basis. What evidence he is required to produce before sales tax officer to prove the stock transfer? If he is unable to produce that evidence, what are the consequences? **1+2**

(ii) State the dealers who are not eligible to opt for composition scheme under Vat regime? **3**

- 8. Answer any two:** **[4×2=8]**
- (a)** Describe the application of Resale Price Method (RPM) in the context of Arm's Length Price. **4**
- (b)** State the procedure to calculate Income Tax on the basis of Arm's Length Basis. **4**
- (c)** State the meaning of 'safe harbour'. Also state the implications of it in the context of international transfer pricing. **2+2**